

FEDERAL MARITIME COMMISSION

WASHINGTON, D.C.

DOCKET NO 15-11

IGOR OVCHINNIKOV, ET AL

v.

MICHAEL HITRINOV ET AL

CC:OS
OEC
RJG
RL
 ORIGINAL

FILED

MAY 3 - 2016

Federal Maritime Commission
Office of the Secretary

RESPONDENTS' RESPONSE TO COMPLAINANTS REQUEST FOR ORDER

Pursuant to Rules 69 and 71, Respondents hereby reply to Complainants' extraordinary motion that Counsel for Respondents be ordered to comply with the Rules of the Commission, made without any attempt to confer¹ and hidden within a totally extraneous pleading, as has become Complainants' custom.

Tucked away within Complainants' opposition to Respondents' motion for a conference is a reckless and highly unprofessional motion asking the Presiding Officer to order Respondents' to obey the FMC Rules on pain of sanction. Even apart from the fact that no such order is required, as Rule 26 requires all attorneys, including Counsel for Complainants, to obey the Rules, Complainants fail to allege a single instance in which Counsel for Respondents violated a specific Commission Rule. Rather, Counsel for Complainants relies on his own, untutored ipse dixit in whining that anything he does not favor is somehow improper or unorthodox.

¹ We do not here press Complainants' repeated refusal to obey the Commission's requirement for conferral, as we acknowledge that consent would have been denied.

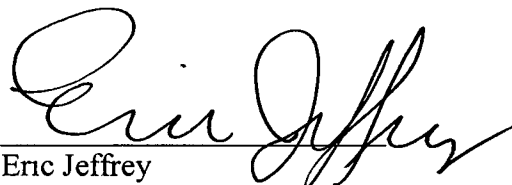
In ruling on this motion, the Presiding Officer should also consider the source. As the Presiding Officer is aware, Counsel for Complainants has previously been determined to have flouted the FMC's rules by filing a letter motion in clear contravention of the Commission's Rules and the Initial Order. More recently, Counsel for Complainants has twice inserted requests for relief required to be made by motion into alleged responses dealing with other matters, and in his most recent missive has addressed in one response matters raised by a motion wholly different from that to which the response was purportedly directed. As previously noted, Counsel for Complainants has also made multiple misstatements of both fact and law. And as will be shown in Respondents' motion to dismiss, Counsel for Complainants has included within the blunderbuss Complaint claims of violation that are patently frivolous because they are not applicable to EUL as an NVOCC (e.g., violations applicable only to controlled carriers or MTOs).²

² Counsel's bullying tactics are also well documented. He previously threatened unjustified thical action against Respondents' Counsel based on use of a document that Complainants' Counsel should have known was made available by his former employer, Mr. Kapustin.

CONCLUSION

For the foregoing reasons, Specially-Appearing Respondents request that Complainants' Motion be denied as unnecessary and unfounded.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Eric Jeffrey", written over a horizontal line.

Eric Jeffrey
Harini N Kidambi
Nixon Peabody LLP
799 9th Street, N W., Suite 500
Washington, D C 20001
202-585-8000

 ORIGINAL

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document via electronic and first-class mail to the following:

Marcus A. Nussbaum, Esq
P O Box 245599
Brooklyn, NY 11224
Marcus.nussbaum@gmail.com

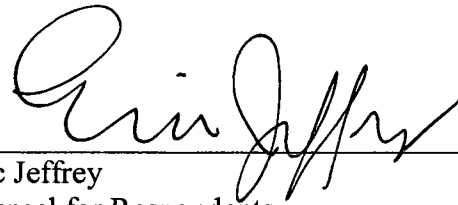
Seth M. Katz, Esq
P O Box 245599
Brooklyn, NY 11224

FILED

MAY 3 - 2016

Federal Maritime Commission
Office of the Secretary

Dated at Washington, DC, this 3rd day of May, 2016



Eric Jeffrey
Counsel for Respondents